

APR 28 11 33 AM '95
Before the
Federal Communications Commission
Washington, D.C. 20554

DISPATCHED BY

PR Docket No. 94-58

In the Matter of

Amendment of Part 13 of the
Commission's Rules to Provide
Temporary Conditional Operating
Authority for Commercial Radio
Operator License Applicants.

REPORT AND ORDER

Adopted: April 17, 1995;

Released: April 27, 1995

By the Commission:

I. INTRODUCTION

1. On June 13, 1994, we adopted a *Notice of Proposed Rule Making (Notice)*¹ in the above-captioned proceeding. In the *Notice*, we proposed to authorize persons who have passed the required examinations and applied for commercial radio operator licenses to perform the functions of a commercial radio operator on a temporary and conditional basis while awaiting their licenses.² This *Report and Order* adopts the rules as proposed.

II. DISCUSSION

2. The Commission's rules require a station operator in a number of radio services to hold a commercial radio operator license, certificate or permit (license). After passing the examinations necessary to qualify for certain of these licenses,³ and submitting an application to the Commission, an applicant currently must wait for the Commission to process the application. Many of these applicants, however, must have the license as a condition of employment and, therefore, are delayed in starting to work.

3. The National Association of Business and Educational Radio, Inc. (NABER) filed comments in this proceeding. NABER states that it unequivocally supports our proposal.⁴ It agrees that many commercial radio operator license ap-

plicants need their license as a condition of employment, and that our proposal would permit many people to commence work immediately after they receive their Proof-of-Passing Certificates (PPCs).⁵ We will, therefore, adopt the rule amendments as proposed.

4. These rule amendments provide that possession of the PPC document will activate the operating authority of a commercial radio operator temporarily and conditionally until the license is granted. For purposes of making log entries,⁶ the amended rules require a commercial radio operator exercising temporary conditional operating authority to enter the PPC serial number and date of issue in place of the FCC-issued license serial number and expiration date. We also are including minor rule amendments that clarify certain Commission procedures. These rule amendments we are adopting are yet another step in creating a government agency that works better and costs less.

5. We believe these rule amendments will provide improved service to our customers by permitting applicants who have passed the qualifying examinations and applied for a commercial radio operator license⁷ to perform the functions of a commercial radio operator prior to receiving the Commission license. This will be a significant benefit to persons who must have the license as a condition of employment. These individuals will be able to start work immediately. NABER's comments, furthermore, represent industry's support, and specifically recognize this procedure is verifiable and simple to implement.

6. In summary, we are adopting rule amendments to authorize persons who have passed the required examinations and applied for commercial radio operator licenses to perform the functions of a commercial radio operator on a temporary and conditional basis while awaiting their licenses. Our decision will increase the availability of licensed commercial radio operators by eliminating the license processing delay inherent in the current licensing system.

III. PROCEDURAL MATTERS

7. Final Regulatory Flexibility Analysis.

Need and purpose of this action. This rule making proceeding was needed to obtain comments regarding our proposal to authorize persons who have passed the required examinations and applied for commercial radio operator licenses to perform the functions of a commercial radio operator on a temporary and conditional basis while awaiting their licenses. The purpose of this action is to permit persons who must have the license as a condition of employment to start work immediately. A likely secondary benefit is applicants will receive their Commission-issued

¹ 9 FCC Rcd 3134 (1994).

² See *Notice* at para. 1.

³ The types of commercial operator licenses are: Restricted Radiotelephone Operator Permit (examination not required), Marine Radio Operator Permit, General Radiotelephone Operator License, Global Maritime Distress and Safety System (GMDSS) Radio Operator's License, GMDSS Radio Maintainer's License, and First, Second, and Third Class Radiotelegraph Operator's Certificates. The Ship Radar Endorsement also requires examination. See Section 13.7 of the Commission's Rules, 47 C.F.R. § 13.7.

⁴ NABER comments at 3.

⁵ NABER also suggests we reduce the time an individual has to

apply for a commercial operator license from 365 days to 60 days. We will not adopt this suggestion. Many licenses require an applicant to pass multiple examination elements, some of which are complex. Shortening the period to apply for a license would limit an applicant's flexibility to prepare and qualify for a license.

⁶ See Section 13.19 of the Commission's Rules, 47 C.F.R. § 13.19.

⁷ Part 13 requires that the applicant submit the application to the Commission after obtaining a proof-of-passing certificate from a commercial operator license examination manager for any required examination elements. See Section 13.9(c).

licenses sooner due to a reduction in the number of inquiries to the processing staff regarding the status of pending applications.

Summary of issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis. The commentor agrees that the potential impact of these rule changes is to improve the efficiency in licensing commercial radio operators, thereby making it easier for persons to become licensed commercial radio operators. No other comments were received.

Significant alternatives considered and rejected. Alternatives include the Commission continuing to require persons wait until they receive a Commission-issued license document before they can perform the functions of a commercial radio operator. The proposed alternative is adopted to minimize the impact on persons who require this document as a condition of employment.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED that effective **July 1, 1995**, Part 13 of the Commission's Rules, 47 C.F.R. Part 13, IS AMENDED as set forth below. Authority for this action is found in Sections 4(f)(4)(A), (B), and (J), 4(i), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(f)(4)(A), (B), and (J), 154(i), and 303(r).

9. IT IS FURTHER ORDERED that this proceeding IS TERMINATED.

10. For further information, contact the Private Wireless Division, (202) 418-0680.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary

APPENDIX

Part 13 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Part 13 - Commercial radio operators

1. The authority citation for Part 13 continues to read as follows:

AUTHORITY: Secs. 4, 303, 48 Stat. 1066, 1082 as amended; 47 U.S.C. 154, 303.

2. Section 13.9 is revised by redesignating paragraphs (d) and (e) as paragraphs (e) and (f) respectively, and adding a new paragraph (d) to read as follows:

§ 13.9 Eligibility and application for new license or endorsement.

* * * * *

(d) Provided that a person's commercial radio operator license was not revoked, or suspended, and is not the subject of an ongoing suspension proceeding, a person whose application for a commercial radio operator license has been received by the FCC but which has not yet been acted upon and who holds a PPC(s) indicating that he or she passed the necessary examination(s) within the previous 365 days, is authorized to exercise the rights and privileges of the operator license for which the application was received. This authority is valid for a period of 90 days from the date the application was received. The FCC, in its discretion, may cancel this temporary conditional operating authority without a hearing.

* * * * *

3. Section 13.13 is revised by redesignating paragraphs (d) and (e) as paragraphs (e) and (f) respectively, and adding a new paragraph (d) to read as follows:

§ 13.13 Application for a renewed or modified license.

* * * * *

(d) Provided that a person's commercial radio operator license was not revoked, or suspended, and is not the subject of an ongoing suspension proceeding, a person holding a General Radiotelephone Operator License, Marine Radio Operator Permit, First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, GMDSS Radio Operator's License, or GMDSS Radio Maintainer's License, who has an application for another commercial radio operator license which has not yet been acted upon pending at the FCC and who holds a PPC(s) indicating that he or she passed the necessary examination(s) within the previous 365 days, is authorized to exercise the rights and privileges of the license for which the application is filed. This authority is valid for a period of 90 days from the date the application is received. The FCC, in its discretion, may cancel this temporary conditional operating authority without a hearing.

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4. Sections 13.19(b)(3) and (c) are revised to read as follows:

§ 13.19 Operator's responsibility.

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(b) ***

(3) The class, serial number and expiration date of the license when the FCC has issued the operator a license, or the PPC serial number(s) and date(s) of issue when the operator is awaiting FCC action on an application:

(c) When the operator is on duty and in charge of transmitting systems, or performing service, maintenance or inspection functions, the license or permit document, or a photocopy thereof, or a copy of the application and PPC(s) received by the FCC, must be posted or in the operator's personal possession, and available for inspection upon request by a FCC representative.

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